

**ASSEMBLY BILL**

**No. 375**

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**Introduced by Assembly Member Skinner**

February 14, 2011

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An act to add Section 3212.13 to the Labor Code, relating to workers' compensation.

LEGISLATIVE COUNSEL'S DIGEST

AB 375, as introduced, Skinner. Hospital employees: presumption.

Existing law provides that an injury of an employee arising out of and in the course of employment is generally compensable through the workers' compensation system. Existing law provides that, in the case of certain public employees, the term "injury" includes heart trouble, hernia, pneumonia, human immunodeficiency virus, lower back impairment, and other injuries and diseases.

This bill would provide, with respect to hospital employees who provide direct patient care in an acute care hospital, that the term "injury" includes a bloodborne infectious disease, neck or back impairment, or methicillin-resistant *Staphylococcus aureus* (MRSA) that develops or manifests itself during the period of the person's employment with the hospital.

This bill would further create a rebuttable presumption that the above injury arises out of and in the course of the person's employment if it develops or manifests as specified.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. The Legislature finds and declares all of the  
2 following:

3     (a) According to United States Department of Labor, health  
4 care is the second fastest growing sector of the United States  
5 economy, employing over 12 million workers. Women represent  
6 nearly 80 percent of the health care work force.

7     (b) By the nature of their profession, health care workers are in  
8 constant danger of being directly exposed to many infectious  
9 diseases and indirectly exposed through contact with various pieces  
10 of equipment, chemicals, and clothing.

11     (c) Registered nurses constitute the largest occupation within  
12 the health care sector and number over 2.5 million, of which 70  
13 percent are employed in hospitals.

14     (d) In 2008, nearly two-thirds of nurses reported needlestick  
15 and other percutaneous injuries and studies show that injuries have  
16 increased 6.5 percent in surgical settings.

17     (e) Health care acquired infections in California hospitals  
18 account for an estimated 200,000 infections and 12,000 deaths  
19 annually, according to the State Department of Public Health.

20     (f) According to the Office of Statewide Health Planning and  
21 Development, in 2007 there were 52,000 cases of MRSA-infected  
22 patients at hospitals across the state.

23     (g) Each year thousands of nurses, nursing aides, and health  
24 care workers sustain musculoskeletal disorders (MSDs) from  
25 manual lifting of patients and residents. These injuries leave 50  
26 percent or more working in chronic pain and at least 12 percent  
27 leave the profession, many with permanent disabling injuries.

28     (h) In 2007, direct-care registered nurses ranked seventh among  
29 all occupations for the number of cases of MSDs resulting in days  
30 away from work in the United States. Furthermore, the rate of  
31 MSDs in health care workers exceeds that of workers in  
32 construction, mining, and manufacturing.

33     (i) Public safety employees, such as police officers and  
34 firefighters, already have guaranteed access to the workers'  
35 compensation system for MRSA, HIV, cancer, leukemia,  
36 meningitis, back injuries, and other work-related illnesses and  
37 injuries. However, presumptive eligibility for workers'  
38 compensation is nonexistent for health care workers.

1 (j) Due to the rise in work-related illnesses and injuries,  
2 including MSD, MRSA, and other bloodborne diseases, it is most  
3 appropriate to protect health care workers by ensuring access to  
4 workers' compensation for health care workers who suffer  
5 workplace injuries or contract infectious diseases.

6 SEC. 2. Section 3212.13 is added to the Labor Code, to read:

7 3212.13. (a) In the case of a hospital employee who provides  
8 direct patient care in an acute care hospital, referred to in this  
9 section as hospital employee, the term "injury," as used in this  
10 section, includes a bloodborne infectious disease, neck or back  
11 impairment, or methicillin-resistant *Staphylococcus aureus*  
12 (MRSA) that develops or manifests itself during a period of the  
13 person's employment with the hospital. The compensation awarded  
14 for that injury shall include full hospital, surgical, medical  
15 treatment, disability indemnity, and death benefits, as provided by  
16 this division.

17 (b) (1) The bloodborne infectious disease, neck or back  
18 impairment, or MRSA so developing or manifesting itself shall  
19 be presumed to arise out of and in the course of employment. This  
20 presumption is disputable and may be controverted by other  
21 evidence, but unless so controverted, the appeals board shall so  
22 find.

23 (2) The bloodborne infectious disease presumption shall be  
24 extended to a hospital employee following termination of service  
25 for a period of 180 days, commencing with the last date actually  
26 worked.

27 (3) The neck or back impairment, and MRSA presumptions  
28 shall be extended to a hospital employee following termination of  
29 service for a period of 90 days, commencing with the last day  
30 actually worked.

31 (c) A bloodborne infectious disease so developing or manifesting  
32 itself in these cases shall not be attributed to any disease existing  
33 prior to that development or manifestation.